

**2-14A. Civil Judicial Enforcement and Administrative Penalty Collection Actions
(1200 TN 350 2-14A)****1. AUTHORITY.**

- a. To cause civil judicial actions to be commenced or to intervene in suits commenced pursuant to the Clean Water Act (CWA);
- b. To request the Attorney General (AG) to appear and represent the agency in any civil enforcement action, including actions to collect unpaid penalties, instituted under the CWA;
- c. To request the AG to decline to prosecute a previously referred civil judicial action or cease prosecution of a previously filed civil judicial action; and
- d. To appear and represent the agency in any CWA action, exclusive of appeals, where the AG has refused or failed to appear and represent the agency.

2. TO WHOM DELEGATED.

- a. The authorities in 1.a., 1.b., and 1.c., are delegated to the Deputy Regional Administrator.
- b. The authority in 1.d. is delegated to staff attorneys of the Office of Regional Counsel.

3. LIMITATIONS.

- a. The delegatee must obtain the advance concurrence of the Regional Counsel (RC) on the legal sufficiency of the action before exercising the authorities in 1.a.-1.c. The RC may waive concurrence in writing.
- b. The Assistant Administrator for the Office of Enforcement and Compliance Assurance (AA/OECA) must notify the appropriate Regional Administrator (RA) prior to exercising the authorities in 1.a.-1.c.
- c. The delegatee must notify the AA/OECA prior to exercising the authorities in 1.a. and 1.c. and when exercising the authority in 1.b. The AA/OECA may waive the requirement for notification in writing.

4. REDELEGATION AUTHORITY.

- a. The authorities in 1.a.-1.c. may be redelegated to the Branch Chief level, and no further. The authority may not be redelegated without formal amendment.
- b. The authority in 1.d. to represent the agency may be redelegated to staff attorneys, and no further.

**2-14A. Civil Judicial Enforcement and Administrative Penalty Collection Actions
(continued)**

- c. The authority may not be redelegated without formal amendment.
- d. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

5. ADDITIONAL REFERENCES.

- a. Memorandum of Understanding between the Agency and the Department of Justice, June 1977, 42 Fed. Reg. 48942 (1977).
- b. Direct referral agreement memorialized in letter of September 29, 1983, from Alvin L. Alm, Deputy Administrator, to F. Henry Habicht, Assistant Attorney General, regarding direct referrals; Sections 309, 311, 402(h), 504 and 506 of CWA.
- c. For referrals of requests for emergency CWA Temporary Restraining Orders, see the Chapter 2 delegation entitled "Emergency TRO's."

6. SUPERSESSION. Delegations Manual, CWA, Regional Delegation 2-14-A. Civil Judicial Enforcement and Administrative Penalty Collection Actions, 1200 TN RIII 196 (April 11, 2017).

Date: APR 15 2019



Cosmo Servidio
Regional Administrator